



**UNITED STATES DEPARTMENT OF THE INTERIOR**  
**Office of Inspector General**  
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Washington, DC 20240

May 15, 2006

Memorandum

To: Brian Waidmann  
Chief of Staff

From: Earl E. Devaney  
Inspector General

Subject: Transmittal of Report of Investigation -- David Smith, Deputy Assistant Secretary, Fish, Wildlife and Parks

This memorandum transmits the results of the Office of Inspector General (OIG) investigation into an allegation that David Smith, Deputy Assistant Secretary, Fish, Wildlife and Parks, inappropriately designated Houston as a port of entry under the Endangered Species Act of 1973 in order to allow a personal friend to import wildlife and wildlife products into the country. During the course of our investigation, a second allegation surfaced concerning the acceptance of prohibited gifts by Smith.

Although the investigation found that appropriate administrative procedures were followed in the designation of the port of Houston, Smith's involvement in the designation, given his personal relationships with individuals who benefited directly from the port's designation, was inappropriate, creating an appearance of preferential treatment. The results of the investigation also show that Smith failed to comply with regulations on the acceptance and disposition of prohibited gifts under the rules and standards set forth in the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct), 5 C.F.R. Part 2635.

The Report of Investigation was presented to the Fraud and Public Corruption Section of the U.S. Attorney's Office for the District of Columbia. The U.S. Attorney's Office declined prosecution in lieu of administrative action by the Department.

Therefore, I am transmitting this report to you for whatever administrative action you deem appropriate. To assist you in your deliberations, I am also including an ethics analysis of the Report of Investigation conducted by the OIG Office of General Counsel. **Please provide your disposition of this matter within 90 days to the OIG Office of Investigations on the attached Accountability Form.**

Finally, I want to advise you that the employee who provided the OIG with the information that became the subject of this investigation has consented to having his identity disclosed. However, §7 (c) of the Inspector General Act of 1978, as amended (5 USC Appx.),

prohibits any reprisal against an employee for making a complaint or disclosing information to the OIG. As such, I am requesting that you personally ensure that no such action is taken against this individual.

If you have any questions about this Report of Investigation, the accompanying legal opinion, or the Accountability Form, please do not hesitate to contact me at (202) 208-5745.



# Investigative Report

*On David Smith, Deputy Assistant Secretary, Fish and Wildlife and Parks*

This report contained information that has been redacted pursuant to 5 U.S.C. §§ 552 (b)(5), (b)(6) and (b)(7)(C) of the Freedom of Information Act and the Privacy Act, 5 U.S.C. § 552a. References indicating gender are written in the masculine form to protect the identities of individuals and to facilitate the reading of the report.

## **Results in Brief**

This investigation was initiated based on an allegation that David Smith, Deputy Assistant Secretary, Fish and Wildlife and Parks, inappropriately designated Houston as a port of entry under section 9(f) of the Endangered Species Act of 1973, in order to allow Smith's friend, a taxidermist and an executive of Safari Club International (SCI), to import wildlife and wildlife products into the country. According to the complaint, Smith had been overheard by a supervisory Fish and Wildlife Service (FWS) law enforcement official saying that if Houston was not designated, he would not designate Memphis and Louisville, either. During the course of this investigation, another allegation was developed that Smith, while attending an annual SCI conference in December 2004, shot and killed a bison and was presented with the remains as a gratuity.

This investigation found that appropriate administrative procedures were followed in the designation of the port of Houston; however, Smith's involvement, given his personal relationships with individuals who benefited directly from the port's designation, was inappropriate and violated the appearance standard. Smith admitted to shooting and killing a bison at the SCI conference in December 2004. Smith provided an invoice and a copy of the check he wrote to pay for the remains he took from the hunt, such as the hide, hooves, and skull of the animal, although the invoice and check were dated after our investigation had commenced on June 21, 2005. Smith also took roughly 20 pounds of bison meat, which he has admitted he did not pay for. This matter was presented to the U.S. Attorney's Office, Washington, D.C. [ Exemption 5 ]. Prosecution was declined in lieu of administrative action by the Department of the Interior (Department).

## **Background**

A "port," as defined in Section 9(f) of the Endangered Species Act of 1973, is a place of entry into the United States where shipments of private or commercial goods are both imported and exported and channeled through to various destinations. A "designated port" is a port that is distinguished as a 24-hour, functional import/export facility, staffed with inspectors who can more closely scrutinize the cargo being shipped into the United States. These designated ports typically waive the usual fees associated with importing items, particularly for noncommercial imports, such as licensing, administrative, and shipment fees.

Port designation is initiated in one of two ways. Congress proposes designation to the Department or the Department identifies a specific port as worthy of designation, based on tonnage of imports and exports at the site, as well as the amount of commercial and private business that comes through the port. A proposed rule is drafted, signed by a Department official, and published in the Federal Register for public comment. After the public comment period, the final rule is signed by the appropriate Department official and published in the Federal Register with the date of the port's designation.

The proposed rule for the designation of the port of Houston, as well as Memphis and Louisville, was published in the Federal Register on April 22, 2004, and was open to comments from the public for just over a month, ending on May 24, 2004. The final rule to designate Houston was published in the Federal Register on December 6, 2004. Houston became a designated port, along with Memphis and Louisville on January 5, 2005.

SCI is a worldwide safari hunting organization working for the conservation of wildlife, education, and protection of the right to hunt. As of January 2004, a former supervisor, FWS, Office of Law Enforcement, Southeastern Region, has been an SCI executive. Another SCI executive maintains that he and SCI are big supporters of FWS and that he and David Smith have known each other for many years.

## **Details of Investigation**

On June 21, 2005, an FWS law enforcement officer, Houston, TX, provided information to the Office of Inspector General (OIG) concerning the alleged inappropriate designation of the Houston port. According to him, the Deputy Assistant Secretary for Fish and Wildlife and Parks inappropriately designated Houston as a port of entry under section 9(f) of the Endangered Species Act of 1973, in order to allow his friend, a taxidermist and executive of SCI, to import wildlife and wildlife products into the country at a reduced cost. The FWS law enforcement officer stated that Smith had been overheard by a supervisory FWS law enforcement official saying that if Houston was not designated, he would not designate Memphis or Louisville, either.

According to the FWS law enforcement officer, on October 1, 2003, he took part in a conference call that also included Kevin Adams, Chief, Office of Law Enforcement, FWS; a wildlife inspector; a supervisory FWS law enforcement official; and another high-level FWS law enforcement official. The FWS law enforcement officer advised that during this call, Adams instructed the supervisory law enforcement official and another supervisory FWS law enforcement official to travel to Houston the following week to join him and meet with the taxidermist, who is also a close friend of David Smith. The FWS law enforcement officer advised that the taxidermist was troubled by a recent FWS decision that affected local port policy, specifically the August 2003 decision to require that outfitters, hunters, and taxidermists obtain the Federal Fish and Wildlife Import/Export license. The intention of FWS law enforcement officials' trip was to quell the taxidermist's confusion over this policy.

According to the FWS law enforcement official, he and the other FWS law enforcement officials met with the taxidermist on October 9, 2003, at his taxidermy shop in Houston. The FWS law enforcement official maintained that the taxidermist was concerned about recent policies concerning the port of Houston, which the other FWS law enforcement officials clarified for him. According to the FWS law enforcement official, while there was some mention of designating Houston as a port of entry, it was just general conversation and nothing specific. He maintained that the only reason the taxidermist received such personal attention from FWS law enforcement concerning this matter was because of his close friendship with David Smith.

The FWS law enforcement official further suggested that Houston was designated as a port of entry due to Smith's friendship with the taxidermist and other members of SCI. According to the FWS law enforcement official, the designation of the Houston port allows for more expedient handling of overseas trophies, such as animal carcasses, hides, or byproducts, to enter the United States, and this would provide a great benefit to both Houston-based SCI members who hunt overseas, as well as Mr. Smith's friend's taxidermy business in Houston. He stated that Houston did not need to be designated as a port because Dallas, approximately 3 hours away, was already designated, and there was not enough influx to warrant the designation of both ports. Furthermore, he advised that FWS law enforcement did not have the funds to staff the port of Houston, and the entirety of FWS was hurting

now because funds had been transferred from other areas in order to staff the Houston port. Moreover, he stated, since its designation, the port was no longer collecting certain fees that would typically be used to help operate the port. According to the FWS law enforcement official, in order to warrant the designation of a port, it should have a broad array of commercial imports coming in, which he claimed Houston did not have.

In addition to his concerns about the port designation of Houston, the FWS law enforcement official disclosed that David Smith shot and killed a bison while attending an SCI meeting during the weekend of December 3, 2004, at the ranch of an SCI official. He advised that Smith did not pay to attend the hunt and that he was given the bison as a gift, which, the FWS law enforcement official suggested, violates ethical guidelines for someone in Smith's position. He stated he could not recall who had specifically told him about this, but there had been other FWS people in attendance at the ranch, including FWS law enforcement personnel. He provided the names of individuals he believed to have attended the December 2004 meeting at the ranch, as well as names of individuals who might have information concerning Smith's relationship with SCI. The individuals he named included David Smith, a supervisory FWS law enforcement official, and another FWS law enforcement official.

### **Designation of the Port of Houston**

When initially interviewed by the OIG, Kevin Adams, Chief, Office of Law Enforcement, FWS, stated that there were three ports considered for designation at the same time – Houston, Memphis, and Louisville; the ports were designated on January 5, 2005. Adams stated that FWS had “educated” Congress as to the importance of designating both Memphis and Louisville due to the large volume and value of the trade that passed through both ports. As for Houston, Adams said he had personally compiled information in order to determine the impact of designating Houston as a port of entry. Adams explained that he thought Houston should be designated because it had a large volume of noncommercial trophies coming through that port, and it would benefit FWS to utilize the staff that was already in place in Houston to examine the import of these trophies in furtherance of the mission of FWS. Also, Adams said it was an opportunity for FWS to be more responsive to the business community, when commercial shipments came in through the port. Adams advised that, given the amount of trophies that come through Houston, it would be more efficient to designate Houston in an attempt to funnel trophies to that single port as opposed to having them come into the country from various ports where FWS would not have suitable oversight.

Adams stated that the process for designating Houston was no different than previous port designations. Initially, the proposed rule, which details the specific port to be designated, was written and published in the Federal Register. Adams provided agents with this document and copies of approximately 40 letters sent to FWS, all in support of this proposal. *Agent's note: The majority of the letters appear to be the same form letter sent in by different people. Most of the letters appear to be from individuals within the hunting and gaming community, including the taxidermist friend of David Smith.* Adams said he was not aware of any letters sent to FWS that opposed the Houston designation. Since the proposal was not contested, Adams said FWS went through with the process. He said David Smith ultimately signed off on Memphis, Louisville, and Houston, designating each as a port.

When asked why FWS did not approach Congress for support with Houston, as they had with Memphis and Louisville, Adams advised it was because unlike Memphis and Louisville, Houston was already staffed with the appropriate amount of people to run the port and, therefore, they did not need any monetary assistance from Congress. Furthermore, Adams advised that the designation of Houston

has not affected the budget or the day-to-day operations of the port itself, as funds for all ports come from a single source where funds are routed to different ports when needed. Adams explained that individual ports do not maintain control over their own budgets.

Adams maintained that David Smith's involvement was limited to the signing off on the three ports, which was not out of his scope of authority. Adams said Smith had no further involvement and never pressured him, or anyone else, to his knowledge, to designate Houston. Adams advised that he knew Smith had an interest in SCI and that he occasionally went on hunts and to other engagements with its members, but Adams maintained that Smith did not have anything to do with Houston's designation. Adams said the only thing Smith ever mentioned to him was that Smith had been waiting on a trophy to come through the Houston port at one time and hoped it would go through prior to Houston's designation in order to avoid any look of impropriety. Adams said that, to the best of his knowledge, Smith's trophy indeed arrived prior to the port's designation.

Adams also stated that the taxidermist never pressured anyone in FWS to designate the Houston port. According to Adams, none of the hunting groups had ever called him.

However, in a subsequent interview with Adams, he was reminded of the October meeting between FWS law enforcement agents and the taxidermist, where Adams had allegedly directed these agents to meet directly with him. When asked why he omitted referring to the meeting with the taxidermist during his initial interview with OIG agents, particularly after being asked if the taxidermist had played any role in the designation of the Houston port, Adams said that if OIG agents wanted answers to specific questions, they should ask them.

According to Adams, the taxidermist had "probably" made a complaint directly to David Smith concerning the designation of the Houston port sometime in September 2003. Adams said he learned of his discontent from Smith, who told him to take care of the issue. Adams said he then held a teleconference call on October 1, 2003, with personnel from Region 2, including three FWS law enforcement officials and possibly a wildlife inspector from Arlington. Adams said he told two of the FWS law enforcement officials to go to Houston the next week and meet up with another FWS law enforcement official, and the three of them should then meet with the taxidermist. Adams advised that the two FWS law enforcement officials left for Houston the following week to meet with another FWS law enforcement official and the taxidermist. Adams said the supervisory FWS law enforcement official had phoned him from the road after the meeting with the taxidermist, and that was the last Adams heard about the issue.

When asked what the meeting with taxidermist had been about, Adams said he could not recall exactly, although he said it might have had something to do with a change in the ports' permits policy. When asked if he had received any paperwork or documentation from the supervisory FWS law enforcement official concerning the meeting with the taxidermist, Adams said he had not and reiterated that he could not recall the exact purpose of the meeting. Adams advised that it was not unusual to send agents to meet with private business owners or organizations and that people from FWS had met with Congressmen and large organizations in the past. Adams was asked if he thought the taxidermist's complaint was tantamount to a congressional request or complaints of a large firm or organization, and Adams admitted it was not. When asked if it was typical for FWS to receive one call from an individual and then dispatch three agents to meet with this individual, Adams conceded that it would be unusual. When asked what the difference was in this case, Adams explained it was because the phone call had come in at the "Assistant Secretary's level." When asked if this meant that he had

dispatched agents to Houston because the taxidermist had directly contacted Smith, Adams acknowledged in the affirmative, although he added that he did not feel the taxidermist got special treatment because of his friendship with Smith.

Adams explained that he gets calls of this nature from time to time. When asked how these calls are typically handled, Adams said he would normally refer the phone call to someone in the appropriate region, which, in this case, had been the supervisory FWS law enforcement official. Adams said he would then leave it up to the region to decide how to handle the situation. However, in the taxidermist's case, he admitted that he personally directed the two FWS law enforcement officials to meet with the taxidermist. Again, he was asked what the difference was, and again he stated that since the call had gone directly to Smith, he thought a meeting was warranted.

Adams was asked if sending the two FWS law enforcement officials to Houston had been his idea or if he had been directed to send them to Houston by David Smith. Adams said it had been his own idea. Again, when asked if Smith had any input in sending anyone to Houston, Adams stated that Smith did not micromanage and that it had been solely Adams' idea. However, when Adams was asked to supply agents with a written statement to this effect, Adams said he could not sign a simple "yes" or "no" statement because he was not sure whose idea it had been to send them to Houston, although he was pretty sure it had been his idea and not Smith's. "My statement will be what it is," Adams advised. "I cannot recall one way or another." When asked how many other taxidermists the supervisory FWS law enforcement official had been requested to meet with since his meeting with the taxidermist, Adams advised that he did not believe the FWS law enforcement official had met with any others.

A wildlife inspector was interviewed by the OIG concerning the port designation. The inspector had been involved in the designation of Houston process. According to him, Memphis, Louisville, and Houston were all being considered for designation around the same time. With Memphis and Louisville, there was congressional interest, and a proposal was presented from FWS to Congress detailing how much money they would need to open both ports. According to both the wildlife inspector and a FWS regulation specialist, they required money from Congress to do this because neither Memphis nor Louisville had any personnel. This was different than Houston, explained the wildlife inspector, because Houston was already staffed prior to designation and, therefore, would not require any additional funding from Congress to designate the port. The wildlife inspector stated that it also made sense to designate Houston because of the large number of trophies shipped through there. Designation, he stated, would expedite the import of these trophies since the port would be open 24 hours a day and there would always be people on staff to assist in the importation.

The wildlife inspector stated that a non-designated port requires importers to go through a process that involves the issuance of a 2-year license in advance and \$100 for authorization. Over and above, importers are charged \$95 per shipment as well as a \$55 administration fee upon entry. There is also a \$20 per-hour inspection fee. He also advised that inspections take typically 2 hours, totaling \$40 per inspection.

However, for a designated port, the wildlife inspector maintained that all fees are waived except a \$55 import/export licensing fee charged only to commercial importers. According to him, in this sense, Houston is technically losing money. However, he reiterated that it is not the mission of FWS to make money but instead to expedite and oversee wildlife imports as well as maintain customer



service to commercial businesses and individuals, which is made more efficient by the designation of Houston. According to the wildlife inspector, Houston had been popping up on the radar to be designated for quite some time, as it maintained a high volume of seizures and overall traffic.

When asked, the wildlife inspector said the benefit to the government in designating Houston was that it cut down on customer complaints and enabled FWS to more efficiently oversee the import of wildlife trophies. He stated the only loss to the government was that the Houston port was no longer collecting money from fees, but, in his opinion, Houston's designation was justified.

When interviewed, another supervisory FWS law enforcement official stated that his introduction to the taxidermist came when he found a yellow "Post-It note" in his office to call someone at a brokerage firm that represented the taxidermist. The FWS law enforcement official stated that he did not know who placed the note in his office. The FWS law enforcement official said he contacted the brokerage firm and then contacted the taxidermist directly. The official advised that the taxidermist had some concerns about port policies, although he could not recall anything specific about the conversation. He told the taxidermist they would be leaving for Houston the following day and would meet with him while there. The FWS law enforcement official advised that he had already planned to be in Houston for that week because he was new to the region and wanted to visit the RAC office and the port. According to him, the object of the meeting with the taxidermist, which included two FWS law enforcement officials, was to discuss recent changes in port policies. He could not recall the October 1, 2003 conference call until agents reminded him of it. He maintained he vaguely remembered the taxidermist's name coming up but could not remember if it had been the FWS supervisory law enforcement official or Kevin Adams who had brought him up.

The FWS supervisory law enforcement official was interviewed and asked if he could remember the October 1, 2003 conference call. He replied by saying that he wishes he could say yes, but he could not. In reference to him being prompted to meet with the taxidermist, he added that if the "Chief," referring to Adams, says to do something, "you do it." The FWS supervisory law enforcement official was asked if he found it unusual that Adams directed him to set up the taxidermist meeting. He did not answer the question specifically; instead, he replied that he was sure that Adams told him but he cannot recall.

The FWS supervisory law enforcement official further expounded that "if we had a conference call, it is quite possible" that it was suggested that "we get over there." He also said it is possible that the taxidermist meeting was planned before the decision was made to visit the Houston RAC Office. He said the only way a meeting with the taxidermist would have precipitated would have been in response to a phone call or a letter.

The FWS supervisory law enforcement official recounted the October 9, 2003 meeting with the taxidermist as talking to him about changes in the port permit policy and taking a tour of the taxidermy facility. The FWS supervisory law enforcement official also recalled a discussion about why the policy was changing. He further added that to the best of his recollection, the trip was to talk about policy changes. He added that although he did not recall specifically that the port designation was discussed, it was quite possible that it was. The FWS supervisory law enforcement official said he did not think the meeting with the taxidermist was unusual, as he planned to visit Houston anyway.

The FWS supervisory law enforcement official explained that neither he nor another FWS law enforcement official had visited the Houston office, and it was his goal to do so. He was asked if there

had been similar meetings like the one with the taxidermist with other business owners. He replied, “Probably not.” When asked whether he overheard Smith or someone else saying that Memphis and Louisville designations would be held up if Houston did not also get designated, the FWS supervisory law enforcement official said he could not recall ever hearing any such statement.

The taxidermist was interviewed by the OIG. He advised that, prior to meeting with the three law enforcement officials on October 9, 2003, he had been lobbying to get Houston designated. The taxidermist stated that he had probably sent letters to the Department as well as to his brokerage firm in an attempt to get Houston designated but could not provide investigators with copies of these letters. He stated that he had also placed phone calls to individuals at the Department and that David Smith could have been one of the people he called. He said he also would meet with different individuals about this matter whenever he was in Washington, D.C., including David Smith. Although he could not recall a definitive conversation with Smith concerning this issue, the taxidermist stated that it “finally fell on David’s ears” that Houston needed to be designated.

According to taxidermist, he was surprised that two FWS law enforcement officials came down to see him. He said they discussed a variety of issues at the meeting, including a recent change to port policy. He said they also briefly discussed the designation of the Houston port. The taxidermist stated that he informed the two FWS law enforcement officials of the importance of designating Houston as a port.

When asked what his relationship is with David Smith, the taxidermist stated that they were friends and had known each other for many years. He maintained that he did a lot of taxidermy work for Smith.

When David Smith was initially interviewed concerning these allegations, he stated that he first heard mention of the Houston port during a hunting symposium in Houston in either December 2002 or 2003. Smith stated that he was approached by individuals who wanted to know why Houston was not a designated port. According to Smith, he had not realized the port was not designated until these individuals brought it to his attention. When asked if the taxidermist had been one of these individuals, Smith advised that the taxidermist did attend the symposium and that it was possible they had some discussion about the issue, although Smith said he could not recall any specific details. When Smith returned to Washington, he said he went to Kevin Adams and asked him why Houston was not designated. According to Smith, Adams explained that Houston’s designation had been considered in the past, particularly when Anchorage had been designated, but that it had never gone through. According to Smith, that was the extent of his conversation with Adams concerning the port at that time. Smith stated that he was not involved in the actual designation process – that, in fact, the next he heard of Houston’s pending designation was when he received the proposed ruling for the designation signed on April 22, 2004, by Assistant Secretary Craig Manson, Fish and Wildlife and Parks.

Smith advised that he signed the final public rule designating the Houston port on November 29, 2004, and it was published in the Federal Register on December 6, 2004. According to Smith, Houston was the third largest city in the United States, and he knew it was a large seaport in overall tonnage, and he stated that information was sufficient to make the decision to designate the port and that it was a “no-brainer.”

Smith was then asked about two FWS law enforcement officials' trip to Houston to meet with the taxidermist in October 2003. When asked what the purpose of the meeting had been, Smith said that, as far as he could remember, it had something to do with a new port policy that had recently gone into effect.

Smith said he recalled some questions being raised by brokerage firms and individuals in the Houston area concerning the new policy. Smith stated, "I don't know who, if anyone, told them" to meet with the taxidermist. Smith advised that he did not have a conversation with either of the two FWS law enforcement officials about meeting with the taxidermist. Smith stated that it was possible the taxidermist would have contacted him and that he, in turn, would have contacted Kevin Adams about the issue for Kevin to handle, but that he could not fully remember how it happened.

Smith was asked about his relationship with the taxidermist. Smith advised that he has known him for a long time and that they are friends. Smith said he was also his personal taxidermist. Smith was asked if he was a member of SCI, to which he replied, "I am." Smith elaborated, saying that he had entered some of his trophies in the SCI record books going back three years ago and that he had started receiving magazine subscriptions and e-mails from the organization. According to Smith, after the initiation of this investigation, he met with Shayla Simmons, Director, Department of Ethics, and explained the situation. According to Smith, it was then that he decided to pay the 3 years' worth of membership fees to SCI to avoid any appearance of conflict. Smith advised that his annual fee paid to SCI was \$55, totaling \$165 for the past 3 years. According to Smith, Simmons advised that it was not a problem that he was an SCI member. Smith was asked if he had ever participated in any SCI-sponsored hunts, to which Smith said "no," although he had been on hunts with members of SCI, for which he had paid his own way. *Agent's note: A subsequent interview of Shayla Simmons yielded the same information – specifically that Smith met with her the week of September 20 – 27, 2005, to discuss his concerns. Simmons said Smith mentioned his friendship with the taxidermist and his free membership with SCI. According to Simmons, she advised Smith that she did not see a problem with him maintaining a membership with SCI and that she did not disagree with Smith's intention to reimburse SCI for the past 3 years' membership.*

Smith was asked about the annual SCI meetings at a Texas ranch. According to Smith, the rancher is someone he has known for years, and they are good friends. Smith stated that since 2002, he has been invited to his friend's ranch every December to meet with some individuals on conservation issues and to relax, visit with friends, and do a little hunting. Smith stated that this is not an SCI-specific event and that he considered these invitations to be of a friendly nature. Smith was asked if he reimburses his friend for the hunting at his ranch, to which Smith responded that the ranch is not used for commercial purposes and that no one is charged to hunt at the ranch. Smith was asked if he had ever taken anything for free or as a gift from the ranch, and he stated that he had always made it a point to settle his debts with his friend.

Smith was asked if any of these personal trips to the ranch were ever billed to the government, and Smith advised that both the trip in 2002 and 2003 were over a weekend when he had other meetings in Houston, so he had billed his airfare to the government. Smith advised that he did not collect per diem for the days he was at his friend's ranch. Smith stated that he purchased his own plane ticket for the 2004 meeting at the ranch and did not bill anything to the government for that trip. *Agent's note: A subsequent review of Smith's travel vouchers supported Smith's statements. For example, a voucher dated for the first week of December 2003 advises the purpose for the trip was for*

Smith to attend “the 7<sup>th</sup> Governor’s Symposium on North America’s Hunting Heritage,” which would coincide with the dates of that year’s annual SCI meeting.

However, in a discussion with two of the FWS law enforcement officials, both labored under the impression that their attendance at the annual SCI meeting was within the purview of their duties. One of the FWS law enforcement officials, who also attended the December 2004 SCI meeting, advised that he had vouchered his trip to the government. Another FWS law enforcement official stated that a third FWS law enforcement official of Texas had attended, and he had signed off on his voucher as well. *Agent’s note: A review of the third FWS law enforcement official’s travel voucher shows a different official’s signature for the approving official. The purpose of the trip is stated as “Performance of official duties of the Fish and Wildlife Service, including meeting attendance.”*

### **The Bison Hunt on the Ranch**

A rancher friend of David Smith and member of SCI was interviewed regarding Smith’s hunt at his ranch. He advised that he is the owner of a ranch used primarily for noncommercial and charity hunting. According to him, this is not a commercial ranch, and he never charges anyone to come and hunt on the property. The rancher advised that in the past few years, SCI has been holding their annual meetings at his ranch. According to him, it is typical for the incoming SCI president to arrange the event and to take care of the invitations to those outside SCI that they would want to attend. He explained that each year SCI invites members of FWS as well as members of local law enforcement and certain sportsmen to the event.

The rancher maintained that David Smith had attended SCI’s annual meeting, which took place over the weekend of December 3, 2004, at the ranch, and that he also recalled someone else from FWS in attendance, although he could not remember the name.

When asked about the shooting of the bison, the rancher stated that there was an aging bison on his ranch that had become “semi-domesticated” but whose health was failing due to old age. According to the rancher, one could practically walk up and pet the animal. He recalled that David Smith was awarded the honor of shooting the bison and that Smith and a group of others had taken a vehicle out to where the bison was located. He said Smith had administered a “brain shot”—that is, a shot to the eye socket to induce a quick kill. The rancher said that Smith would have probably taken the shot from around 30 to 40 yards away. The rancher was asked if he was present when Smith shot the bison. He said he could not remember.

When asked what had happened to the hide, meat, and skull of the bison, the rancher said he could not remember but that he typically donates the meat to charity. The rancher advised that he would have probably thrown away the hide and that someone could have taken the skull if they had wanted to. When asked again, the rancher stated that it was possible that some of the meat was distributed among the guests and that David Smith could have possibly taken the bison’s skull. According to the rancher, had Smith taken the skull, it would have been sent directly to his taxidermist. The rancher advised that if this were the case, the taxidermist would have billed the rancher, and the rancher would have, in turn, billed Smith. The rancher said Smith’s check would have been made out to either the ranch or another company owned by him. When asked, the rancher stated that he had no idea what Smith did with the skull.

The rancher was asked if he had ever given Smith any type of gratuity or thing of value without Smith paying for it. The rancher stated that, given Smith's position, he knew he was unable to accept gifts, and he could not recall ever giving Smith anything of value without charging him. The rancher stated that Smith would have paid for the bison skull. Likewise, had Smith killed the bison elsewhere, there would have been a \$300 or \$400 price tag attached to the hunt alone, so Smith would have paid for the hunt as well.

When asked if there was any discussion about the designation of the Houston port at this event, the rancher said he could not recall specifically, as there were roughly 30 people in attendance and he was not privy to all of the conversations, but he vaguely recalled some brief mention of it. The rancher advised that those in attendance were aware of the pending designation at the time of the meeting.

The rancher advised that he has never been hunting with Smith and does not interact with Smith outside of formal meetings or conventions. He stated that as far as he knew, the bison was the only animal Smith had ever shot on his ranch.

The rancher agreed to provide agents with any invoices he could locate where either the ranch or his other business had billed Smith. The rancher subsequently supplied this office with invoices, business notes, bills, and copies of checks written by David Smith to the ranch. *Agent's note: The taxidermy invoice provided by the rancher, and one of Smith's checks, were written after this case was initiated and interviews conducted. A previous check from Smith to the rancher is dated 6/2/2005 but appears to be unrelated to the December 2004 bison hunt. The note in the memo item references "Sika Deer Taxidermy."*

The taxidermist was also asked about the December 3, 2004 SCI meeting at his ranch. The taxidermist advised that for the past few years, SCI has been holding their annual meeting at the Smith's friend's ranch. According to the taxidermist, it is typical for SCI to invite prominent figures in government and politics to these annual events, as well as the heads of different hunting groups, so everyone could meet, have lunch, and talk about making things better and educating hunters. The taxidermist stated that he invited both David Smith and one of the FWS law enforcement officials to the December 2004 meeting at the ranch. In fact, the taxidermist advised that Smith had attended the past few annual meetings at the ranch. The taxidermist stated that he would contact Smith to make sure Smith's schedule was clear and that Smith would also have business in Houston at that time, which would permit him to travel on the government and also attend the SCI event.

When asked if the designation of the Houston port was discussed at this event, the taxidermist said he could recall Smith saying something about it, but nothing specific.

When asked if David Smith had shot and killed a bison while on the ranch, the taxidermist advised that he had. According to the taxidermist, they were going to kill one animal on the ranch and the group decided David Smith should have the honors. The taxidermist said they trailed a bison in a vehicle and, when they were close enough, David Smith got out of the vehicle, along with a guide, and shot the bison in the eye from approximately 20 yards away. When asked what happened to the meat from the kill, the taxidermist stated that it was his belief that individuals in attendance took some of the meat home. He stated that David Smith may have taken some of the meat. He also stated that Smith wanted to keep the bison's skull and that Smith had it sent to a taxidermy shop to be cleaned and mounted. When asked how much he charged Smith for the skull, the taxidermist said he did not think he charged Smith. According to the taxidermist, the skull would have been sent to him via the ranch or

through the rancher's other company. The taxidermist stated that he would have billed either the ranch or the other company for the skull and that the rancher should have, in turn, billed Smith. At the time of this interview, the taxidermist could not locate any invoices or paperwork to show this transaction but promised to search his files and send the information to agents at a later date. As of the date of this report, the taxidermist has not provided this office with any paperwork or related documents.

David Smith was asked specifically about the December 2004 visit to the ranch where he was alleged to have shot and killed a bison on his friend's ranch property. Smith advised that since the rancher considers him a guest and a friend, he was presented with the offer to shoot something. According to Smith, it was brought to his attention that there was an older bison on the ranch that "needed to be cold," or killed. Smith stated that he was "talked into it." Smith stated that he drove out to where the bison was known to graze and, upon seeing it, got out of the vehicle and shot the bison from approximately 50 to 75 yards in the head with a 300 Winchester Rifle. Smith stated that he had to shoot it in such a way that would put it down without it injuring any of the hunters or the other animals and that the bison needed to be killed because it was "tearing up a bunch of stuff." After the initial shot, Smith advised that he shot it additional times in the head to make sure it was dead.

Smith advised that he took the bison's shoulder mount, skull, tanned hide, and hooves away from the kill. Smith stated that he currently had the skull still in the packaging from the taxidermy shop in his garage and that he had had made the hooves into bookends. Smith maintained that he had been in contact with the ranch-hand, about paying for these items, and that, as of September 8, 2005, he has paid the rancher in full, which totaled \$3,170.54. Smith provided a copy of his check as well as an invoice faxed to him from the rancher himself, dated September 8, 2005, where the rancher requests the additional payment of \$1410. *Agent's note: This invoice from the rancher to Smith was dated September 8, 2005, one day after the agents' September 7 interview with rancher concerning this matter. Smith's check for the additional \$1410 was also dated September 8, 2005.*

Smith was then asked what happened to the bison meat, and he stated that, to the best of his recollection, it was distributed among some of the individuals at the ranch. When asked again if he had been given any meat, Smith said that he and his wife were preparing to move and that they would not have any room for the meat and that there was no room in his freezer for it, either. When Smith was asked yet again if he had taken any meat from the ranch, Smith then admitted that he had taken a cooler of the meat from the ranch and had given it to a relative but that he did not take any for his own consumption. Smith advised that there had been approximately 20 pounds of meat in the cooler.

Following the completion of this investigation, OIG agents presented these facts to the Fraud and Public Corruption Section, U.S. Attorney's Office, Washington, D.C. The U.S. Attorney's Office had a chance to review this report and subsequently declined the case in lieu of administrative action by the Department.

## **Subject/s**

David P. Smith, Deputy Assistant Secretary, Fish and Wildlife and Parks

## **Disposition**

This investigation has been concluded and referred to FWS for appropriate action.